

**-FILED-**

UNITED STATES DISTRICT COURT

JAN 05 2015

NORTHERN DISTRICT INDIANA

At  
ROBERT N. TRGOVICH, Clerk  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA

FORT WAYNE DIVISION

ERIC LEON JOHNSON

CIVIL NO. 2:14 CV-249

PLAINTIFF

V.

THE CITY OF SOUTH BEND et al

DEFENDANT

PLAINTIFF'S AMENDMENT COMPLAINT

I Eric Leon Johnson , the plaintiff in this case-2:14 CV-249 I'am requesting that the court review this case, decided by Judge William C. Lee. The defendants filed a motion to dismiss based on the statute of limitations, which was granted, on July, 17, 2014 I filed a motion for a statutory exception, based on a civil commitment which was denied, and the case was dismissed based on statute of limitations. I'am not experience in filing a lawsuit and I'am going to make some mistakes. So I'am going to do the best I can. When I filed a motion for a statutory exception based on a civil commitment, I wasn't ordered to go to Edgewater Systems, I went on the advice of my doctor. When I went, I was ill, incompetent, and drug addicted, when I went to Edgewater I thought I was under a volunteered civil commitment. On, 04/26/04, a friend told me I had old friends, that's on the South Bend Police Department and they might be able to help me. I went to the Police Department, I took the destroyed digital components with me. I talked to Captain Ronald G. Marciniak, I gave him a 2 ½ hours long deposition audio / video, he

acted like he was going to help me, but he said I couldn't file charges against those police officers, because they has filed charges against me. I think the tape was still running, when he said it. I believed him because he was ordered by the Chief of Detectives, a friend I grew up with. Capt. Marciniak was head of Internal Affairs. Sometime, in June, 2005, the stress started to take a toll on me, I became psychosomatic and all I could think of was going to prison for 65 years for a crime I didn't commit. The stress got so bad, I went from 198 lbs. to 131 lbs. in a very short time. The false drug charges caused me to have mental and emotional disabilities, making it hard to complete everyday tasks. The threaten phone calls had me so frighten I couldn't drive my car, I had to have someone to drive for me.

The Phone threat. Don't get caught in South Bend, made me pull over every time I saw a police car, I didn't go out after dark. Everybody hated to see me coming, because all I would talk about was my ordeal with the South Bend Police Department. I couldn't talk about it without tears running down my face, I couldn't control my emotional feelings. The case was dismissed, after the Indiana Supreme Court Disciplinary Commission's investigation on 06/02/06 and the judge resigned 06/03/06. It was on the front page of the newspaper, and one of the investigators told me on the phone not to worry about going to prison or jail, and if I'am convicted, I could go after all of them. I knew I was going to court for nothing for 2 years and 3 months. All of these things were done to me, to keep me from filing charges on the defendants. All those things the defendants did, gave me mental and emotional disabilities that affected my ability to file a civil suit against the defendants.

#### CITATION

Plaintiff argues that his mental and emotional disabilities constitute extraordinary circumstances justifying the application of equitable tolling (R. 25, Pl's. Resp. at 2-3) while a plaintiff whose mental or physical impairments prevent him from complying with a statute of limitations may invoke equitable tolling, the tolling doctrine is permitted only upon a showing that a plaintiff's medical condition in fact prevented the plaintiff from satisfying the limitations requirement. See *Gray V. Potter*, 115 Fed. Appx, 891,894 (7<sup>th</sup> Cir. 2004)(citing *Zerilli Edelglass V. N.Y. City Transit Auth.*, 333F.3d 74,80 (2d cir. 2003).

#### Limitation of Actions

##### Key Suspension or Stay in general Equitable tolling

Equitable Estoppel and Equitable tolling are doctrines that stop a statute of limitations from running; the doctrine of Equitable Estoppel, where the plaintiff alleges improper conduct on the part of the defendant, is a more generous doctrine than the doctrine of equitable tolling, which adjusts the rights of two innocent parties. Cases that cite this head note.

The reason why it took so long for me to try to file a complaint, 1 ½ years after the criminal case was dismissed my 15 year old mentally challenged grandson, stabbed my youngest son in his heart with a steak knife. My son was 18 years old and was being called for his first job. But instead he layed in a coma for nearly 3 years. He lived in a nursing home and the hospital's ICU, for the rest of his life. My son passed away in December, 20<sup>th</sup> 2010. I loved my son and spent every day by his side, holding his hand and praying that he came out of the coma. His name was Derek Dudley and I was in his life from the time he was born until the time he passed away. On September 18<sup>th</sup>, 2009 my sister passed away, her name was Myra Johnson. On January 2nd, 2012 my only daughter passed away. She is the one Sgt. Ryan talked about planting something

in my car and charging to her, because my car was in her name. I loved my daughter so much I nearly lost touch with reality, and she was special, she took care of elderly people for 22 years of her 44 years of life. She dranked herself to death worrying about me going to prison for 65 years for nothing or police pulling me over and killing me. Her name was Tina Johnson. I'am not blaming the South Bend Police Department for my daughter's death, what I'am saying is she still might be alive if they hadn't interfered with our lives. I'am not going to stop trying to make the defendants pay for destroying my life and my grandchildren's future. The defendants vicious misconducts stopped after the criminal case was dismissed, they didn't have any reason to continue. The last time the defendants saw me they thought I was dying. To find out if my lawyer was working with the defendants, I told him I thought I had prostate cancer to see if he would get the case dismissed or prolong it, I went from 198 lbs. to 131 lbs., and I did look like I was dying, I didn't have cancer, it was from the stress, it was so severe I couldn't hardly walk. God had other plans for me, because if he didn't, I would be in an insane asylum.

After researching my case, the defendants vicious misconducts and the mental and emotional disabilities, they left me with, entitles me to invoke the doctrine of Equitable Estoppel or Equitable tolling, or both.

Citation- II. Whether Equitable Estoppel or Equitable Tolling apply to plaintiff's claim.

[8] Seeking to avoid dismissal of his second complaint, plaintiff argues that he is entitled to benefit from either equitable estoppel or equitable tolling. (R.25, Pls'. Resp, at 7-11) Equitable estoppels and equitable tolling are doctrines that stop a statute of limitations from running. *Cada V. Baxter Healthcare Corp.*, 920 F.2d 446,450-51 (7<sup>th</sup> Cir. 1990) "The doctrine of equitable estoppel, where the plaintiff alleges improper conduct on the part of the defendant, is a more generous doctrine than the doctrine of equitable tolling – which adjusts the rights of two innocent parties." *Wheeldon V. Monon Corp.*, 946 F. 2d 533,537 (7<sup>th</sup> Cir. 1991)

TIMOTHY P. McLAUGHLIN  
ATTORNEY AT LAW

1017 EAST JEFFERSON BOULEVARD  
SOUTH BEND, INDIANA 46617  
(574) 233-7165  
FAX NO. (574) 288-6892

November 2, 2005

Mr. Eric Johnson  
811 S. Kenmore  
South Bend, IN 46619

RE: State vs. Johnson

Dear Eric:

I continue to be extremely concerned regarding your health. I would appreciate it if you would get me a letter from your doctor ASAP concerning your present condition and your prognosis. You stated to me that it could be prostate cancer. Whatever it is that's eating at you, it is extremely bad and I must know the specifics. I am fearful that your prognosis may well be terminal.

Please obtain a doctor's report for me ASAP. If you wish to discuss, please visit with me.

Very truly yours,

Timothy P. McLaughlin

TPM:pme

ERIC LEON JOHNSON  
3880 PIERCE, ST. APT. 615  
SARASOTA, INDIANA 46408

S SUBURBAN IL 604

31 DEC 2014 PM 10 L



127  
HOL



OFFICE OF THE CLERK  
UNITED STATES DISTRICT COURT  
5400 FEDERAL PLAZA  
HAMMOND, INDIANA 46320

46320184775

